

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS

MORTGAGE ELECTRONIC REGISTRATION)	
SYSTEMS, INC.,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 05-40112-FDS
)	
ESTATE OF TIMOTHY BARLOW, LORI)	
A. BARLOW, THE COMMONWEALTH OF)	
MASSACHUSETTS, DEPT. OF REVENUE,)	
and UNITED STATES OF AMERICA,)	
)	
Defendants.)	

NOTICE OF SUGGESTED PROCEDURE

Pursuant to the Court's Order of January 12, 2006, the United States, with the concurrence of counsel for the plaintiff and the Commonwealth, suggest to the Court that an appropriate and hopefully effective means to obtain a resolution of the above-titled action including all parties will be to order a settlement conference with the express direction that defendant Lori Barlow personally appear at such conference.

Although she has yet to respond to the complaint, Mrs. Barlow is a party to this action as she was served properly with a copy of the summons and complaint by constable on June 15, 2005. See Exhibit A. As a result, this Court has *in personam* jurisdiction over Mrs. Barlow and has the power to compel her appearance pursuant to 28 U.S.C. § 1651, which authorizes this Court to "issue all writs necessary or appropriate in aid of [its] jurisdiction[] and agreeable to the usages and principles of law." 28 U.S.C. § 1651.

We propose that this Court issue the attached "Notice of Conference and Order to Appear," which the United States will have served in hand by the United States Marshal upon

Mrs. Barlow. We believe that this should be sufficient to persuade Mrs. Barlow's attendance at the February 8, 2006 conference in order to effectuate a final distribution of funds in this case.

A proposed order is attached hereto and filed with this Notice.

PLAINTIFF,

DEFENDANT,

Mortgage Electronic Registration Systems:

United States of America:

/s/ David Rhein (by telephone approval)

DAVID RHEIN, Esq.
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/s/ Lydia Bottome Turanchik

LYDIA BOTTOME TURANCHIK, Esq.
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Post Office Box 55, Ben Franklin Station
Washington, D.C. 20044
(202) 307-6560

DEFENDANT,

Commonwealth of Massachusetts:

/s/ Eileen Ryan McAuliffe (by telephone approval)

EILEEN RYAN MCAULIFFE, Esq.
Department of Revenue
Litigation Bureau - P.O. Box 9565
100 Cambridge Street
Boston, Massachusetts 02114
(617) 626-3217

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing Parties' Notice of Suggestion of Procedure has been made upon the following by depositing a copy in the United States mail, postage prepaid, this 17th day of January, 2006:

Lori Barlow
71 Godfrey Lane
Milford, Massachusetts 01757

/s/ Lydia Bottome Turanchik
LYDIA BOTTOME TURANCHIK
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box 55
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Telephone: (202) 307-6560

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Defendants.)	

**NOTICE OF CONFERENCE AND ORDER FOR LORI BARLOW TO APPEAR
IN PERSON BEFORE THE COURT ON FEBRUARY 8, 2006**

SAYLOR, J.

Defendant Lori A. Barlow is hereby notified that on February 8, 2006, at 11:45 a.m. this Court will hold a conference in the above-captioned proceeding to determine the proper distribution of surplus funds in the amount of \$155,119.83, stemming from the foreclosure and sale of real property formerly owned by Timothy and Lori Barlow. The return of service filed in this action reflects that Lori Barlow was served with a summons and a copy of the complaint on June 15, 2005, and, although she has yet to respond to the complaint, this Court concludes that it has *in personam* jurisdiction over Lori Barlow.

Among the items to be taken up at the conference on February 6, 2006, is the manner in which the fund of \$155,119.83, now held by the plaintiff, is to be distributed. The United States has made a claim to the fund in the amount of \$1,679.05, as of December 16, 2005, plus interest which continues to accrue. The plaintiff has a claim for its attorney fees and costs in bringing

this matter in the approximate amount of \$5,200.00. The Commonwealth of Massachusetts has a statutory estate tax lien against the estate of Timothy Barlow, but does not have a current choate assessment against the funds. Accordingly, it appears *likely*, but not to a certainty, that the remaining funds, in excess of \$148,000.00, will be paid to Lori Barlow and/or to the Estate of Timothy Barlow *if* Mrs. Barlow will come forward and make her claim to the money.

Lori Barlow should take notice that this lawsuit is not one in which any party is seeking to recover money or a claim against her personally; rather, the lawsuit is one by which the plaintiff, Mortgage Electronic Registration Systems, Inc., seeks a resolution from this Court as to whom the funds it holds should be paid, and, as noted above, it is *likely* that, if she will make her claim, the bulk of the funds will be paid to Lori Barlow.

Accordingly, Defendant Lori A. Barlow is hereby ordered to attend the conference before this Court in person (with, or without, the assistance of a lawyer) on February 8, 2006, at 11:45 a.m., in Courtroom 2, United States Courthouse, Donohue Federal Building, 595 Main Street, Worcester, Massachusetts.

IT IS SO ORDERED.

Dated: January ____, 2006

F. DENNIS SAYLOR, IV
United States District Judge